

# LABOR AND WORKFORCE DEVELOPMENT

(a)

## INCOME SECURITY

### Contributions, Records and Reports

#### Proposed Readoption with Amendments: N.J.A.C. 12:16

Authorized By: Kevin P. McCabe, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 43:21-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-472.

A public hearing on the proposed readoption with amendments will be held on the following date at the following location:

Friday, January 7, 2005

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

13th Floor Auditorium

Trenton, New Jersey

Please call the Office of Regulatory Services at (609) 292-7375 if you wish to be included on the list of speakers.

Submit written comments by February 18, 2005 to:

Frederick S. Cohen, Regulatory Officer

Office of Regulatory Services

Department of Labor and Workforce Development

PO Box 110—13th Floor

Trenton, New Jersey 08625-0110

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The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 12:16, Contributions, Records and Reports, is scheduled to expire on July 26, 2005. The Department of Labor and Workforce Development has reviewed these rules and, with the exception of the amendments described below, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. Accordingly, the Department proposes that N.J.A.C. 12:16 be readopted with amendments.

N.J.A.C. 12:16-1 addresses the need for a social security number when identifying workers who are subject to the Unemployment Compensation Law.

N.J.A.C. 12:16-2 requires that employers keep certain records, including payroll records, individual worker records, and Federal and State tax returns. This subchapter also requires that records be kept at the place of business of the employing unit and be maintained for the current calendar year as well as the preceding four years. In addition, the subchapter allows inactive employers to destroy records where there is no longer a need for claims information.

N.J.A.C. 12:16-3 lists the conditions which must be met in order for an employer to grant Power of Attorney to another person for the purposes of representing the employer before the Employment Security Agency. The "status" file became obsolete upon the implementation of the New Employer Tax System in calendar year 2000. For this reason the Department is proposing that term "status" be deleted at N.J.A.C. 12:16-3.1(c).

N.J.A.C. 12:16-4 addresses the use of the term "remuneration," within the Unemployment Compensation Law, and provides guidance with regard to whether certain specific types of payments to employees constitute "remuneration." The Department has received numerous inquiries as to the taxability of the value of stock options, deferred payments for services accrued by an employer, and remuneration paid directly by a client company to workers co-employed under an employee leasing arrangement. Accordingly, the Department is proposing adding these terms to the listing of remuneration issues at N.J.A.C. 12:16-4.1(b) and providing an explanation of

their taxability at proposed N.J.A.C. 12:16-4.15, Stock options; 4.16, Deferred payments, and 4.17, Co-employed individuals, employee leasing clients.

N.J.A.C. 12:16-5 concerns employer contributions and the manner in which such contributions shall be paid. The Department is proposing that payment by electronic means be included at N.J.A.C. 12:16-5.3(c) and (d) to be consistent with Section 1 of P.L. 1992, c.140 (N.J.S.A. 54:48-4.1) as amended, which sets the threshold for the requirement that certain taxpayers make State tax payments by electronic funds transfer. The Department is further proposing that N.J.A.C. 12:16-5.3 have the heading "Payment of contributions" to more accurately reflect its contents.

N.J.A.C. 12:16-6 addresses the reimbursement option for unemployment insurance financing available to non-profit organizations.

N.J.A.C. 12:16-7 addresses the conditions under which a governmental entity can choose the contributory option and under which a governmental entity or instrumentality using the contributory method of financing unemployment insurance may use surplus monies remaining in an unemployment trust fund. N.J.A.C. 12:16-7.4(b) has been amended to reflect the formal name change of the agency from the Department of Labor to the Department of Labor and Workforce Development.

N.J.A.C. 12:16-8 addresses group accounts for the purposes of sharing the risk of unemployment benefit costs for two or more employers liable for payments in lieu of contributions.

N.J.A.C. 12:16-9 addresses employers' responsibility for withholding and paying worker contributions and for providing each worker with evidence of such amounts withheld.

N.J.A.C. 12:16-10 addresses the refund of excess deductions made from an individual worker's wages and deposited into the trust funds for unemployment compensation, disability benefits, health care subsidy and workforce development partnership and the method by which a worker may make application for a refund of such excess deductions. Most employers, including the State of New Jersey, do not break down deductions for unemployment, health care, workforce development partnership and supplemental workforce fund for basic skills on the W-2 form. The deductions are also combined on the Division of Taxation's refund claim form. The Department is proposing amendments at N.J.A.C. 12:16-10.2 to combine the rate of deductions for unemployment, workforce development partnership, and health care found at subsections (a), (b) and (c) and to add the deductions for the supplemental workforce fund for basic skills (N.J.S.A. 34:15D-21). The Department is also proposing that periods prior to calendar year 2002 be deleted as they are out of time for a refund application. The Department further proposes restoring language regarding the two-year statute of limitation which had been removed from this section.

N.J.A.C. 12:16-11 addresses certain special employment situations, including real estate managing agents and limited liability companies. The Department is proposing that "Secretary of State of the State of New Jersey" be replaced by "Division of Revenue" at N.J.A.C. 12:16-11.2(a). This change is consistent with the Governor's Reorganization Plan 003-1998, which transferred responsibility for recording certificates of formation from the Office of the Secretary of State to the Division of Revenue.

N.J.A.C. 12:16-12 addresses both concurrent employment by related employers and common paymasters.

N.J.A.C. 12:16-13 outlines the reports to be submitted by employers; the penalties applicable for failure to file reports; and the procedures for requesting penalty abatement. Because employers have been required to file wage reports for over 20 years, the Department is proposing the deletion of "For the calendar quarter commencing July 1, 1984, and each quarter thereafter" at N.J.A.C. 12:16-13.7(a). N.J.A.C. 12:16-13.7(c)1 has been amended to reflect the formal name change of the agency from the Department of Labor to the Department of Labor and Workforce Development. The Department is also proposing at N.J.A.C. 12:16-13.7(e) that for quarters beginning after December 31, 2005, employers who would report in excess of 10 employees and all payroll services who would report an aggregate of in excess of 10 employees be required to file wage reports via electronic means. The Department is doing this in support of the Division of Revenue's paperless filing initiative. The term "electronic means" is used rather than the term "magnetic media" found in N.J.A.C. 12:16-13.7(e)1 through 5 because employers may now file wage reports via the Internet. The Department is further proposing that "UC-1" be replaced with "NJREG" at N.J.A.C. 12:16-13.9(c) as this is the form used by the Division of Revenue to which responsibility for maintenance and update of business registration records was transferred under the Governor's Reorganization Plan 003-1998.

N.J.A.C. 12:16-14 concerns election of coverage. Specifically, the subchapter provides that any employing unit may elect to become subject to



the Unemployment Compensation and Temporary Disability Benefits Laws in order to extend coverage to individuals performing services that do not constitute covered employment. It also sets forth the requirements for such voluntary election of coverage.

N.J.A.C. 12:16-15 concerns the establishment of voluntary joint accounts, whereby two or more employers are permitted to maintain joint accounts for the purposes of N.J.S.A. 43:21-7 of the Unemployment Compensation Law. This subchapter also addresses the effective date, duration, modification and dissolution of such an arrangement. The Department is proposing a grammatical correction at N.J.A.C. 12:16-15.5(b) to change "accounts" to "account."

N.J.A.C. 12:16-16 requires that employers provide notices to their employees that they are covered by the Unemployment Compensation Law. The Department is proposing that at N.J.A.C. 12:16-16.1(c) the phrase "and to whom an unemployment compensation registration number has not been assigned by the Controller or his or her designee" be deleted. As a result of the Governor's Reorganization Plan 003-1998, the Department no longer assigns unemployment compensation registration numbers and now uses the taxpayer identification number assigned by the Division of Revenue. The Department is also proposing that N.J.A.C. 12:16-16.2, Termination of subject status, be repealed. It has been the Department's experience that the majority of employing units which cease to be subject employers, pursuant to the Unemployment Compensation Law, do so because they are no longer in business as the minimum requirement for subject status is one employee (N.J.S.A. 43:21-19(g)) and \$1,000 in remuneration in a calendar year (N.J.S.A. 43:21-19(h)(1)). Under the circumstances, it is unlikely that there would be any workers to notify when subject status ceased.

N.J.A.C. 12:16-17 is reserved.

N.J.A.C. 12:16-18 addresses the transfer of employment experience from one employer to a successor in interest.

N.J.A.C. 12:16-19 addresses benefit charges and provides that the Department must notify the employer of benefits charged to his or her account.

N.J.A.C. 12:16-20 explains the conditions which must be met by an unemployment work-relief or work-training program that is financed or assisted in whole or in part by a Federal agency or an agency of a state, or political sub-division of a state, in order to qualify for the exemption provided by N.J.S.A. 43:21-19(j)(1)(D)(v).

N.J.A.C. 12:16-21 requires that all employers report employee statistics concerning zip codes to the Department of Transportation. N.J.A.C. 12:16-21.2 has been amended to reflect the formal name change of the agency from the Department of Labor to the Department of Labor and Workforce Development.

N.J.A.C. 12:16-22 outlines the procedures for hearings involving questions of coverage, status, liability for contributions, reporting, refunds or rates of contributions. The subchapter provides for informal conferences, formal hearings, final determinations by the Commissioner and appeals to the Appellate Division of the New Jersey Superior Court. The Department is proposing that at N.J.A.C. 12:16-22.3(e), "Division's" be replaced by "Chief Auditor's" and "Division" be replaced by "Chief Auditor or the Chief Auditor's representative" for consistency with the rest of the section.

N.J.A.C. 12:16-23 addresses the services which are excluded from coverage under the Unemployment Compensation Law. The Department is proposing that "Division of Unemployment Insurance/Disability Financing" be replaced with "Department" at N.J.A.C. 12:16-23.1(b)2 because the responsible Division has undergone several name changes. Using the "Department" will eliminate the need for revision should the Division's name again change. For the same reason, the Department is further proposing that "Division" be replaced by "Department" at N.J.A.C. 12:16-23.2(b).

N.J.A.C. 12:16-24 sets forth the requirements which must be met by an employee leasing company, also known as a professional employer organization (PEO), in order to be registered by the Department. Among these requirements are initial and annual registration, proof of financial security, payroll tax certification and workers' compensation insurance. The subchapter also addresses dissolution of an employee leasing arrangement and rescission of registration by the Department. This subchapter has been amended to reflect the formal name change of the agency from the Department of Labor to the Department of Labor and Workforce Development.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

### Social Impact

The rules proposed for readoption with amendments will have a positive social impact in that they will enable the Department to continue to provide needed unemployment compensation and temporary disability coverage to all workers in a timely and efficient manner. Specifically, they require employers to submit detailed reports concerning wages and the payment of contributions or the repayment of benefits. However, since the last readoption of these rules in 2000, the Department believes that certain changes in the law and in Department policies and procedures have not been adequately conveyed to the public. The Department further believes that it must keep pace with technological changes in order to ensure that the wage data and contributions needed for the payment of unemployment and temporary disability insurance benefits are received from employers via the most timely and accurate methods of transmission. Consequently, the rules proposed for readoption with amendments will also increase the stability of the Unemployment Compensation and State Disability Benefits Funds.

### Economic Impact

The rules proposed for readoption with amendments will not have any significant impact upon employers or workers. The proposed amendments at N.J.A.C. 12:16-13.7 reflect changes in the law that provide for the redistribution of the total amount of worker deductions among the Unemployment Compensation Fund, the Health Care Subsidy Fund, the Workforce Development Partnership Fund and the Supplemental Workforce Fund for Basic Skills. Employer wage reporting and contribution payment requirements have been in existence for many years. Any employer costs associated with the proposed amendments at N.J.A.C. 12:16-5.3 and 13.7, which would require certain wage reports and contribution payments to be transmitted via electronic means, are far outweighed by the Department's responsibility to ensure that the reports and payments needed for unemployment insurance and temporary disability benefits payments are received in a timely and accurate manner.

### Federal Standards Statement

The rules proposed for readoption with amendments do not exceed standards or requirements imposed by Federal law. Specifically, the subject rules are consistent with the Federal Unemployment Tax Act, 26 U.S.C. §§3301 et seq., and the regulations promulgated in accordance therewith, 20 C.F.R. §§601 et seq. Consequently, a Federal standards analysis pursuant to Executive Order No. 27(1994) is not required.

### Jobs Impact

The rules proposed for readoption with amendments will have no impact on jobs. The Department does not anticipate an increase or decrease in jobs as a result of the rules.

### Agriculture Industry Impact

The rules proposed for readoption with amendments will not have any impact on the agriculture industry.

### Regulatory Flexibility Analysis

The rules proposed for readoption with amendments will have minimal impact in terms of imposing additional burdens upon businesses of any type, including small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. All employers are required to submit reports concerning withholding, payroll records, remuneration paid, and contributions to the Department of Labor and Workforce Development and must provide employees with certain notices and worker contribution statements. Although some employers may have to employ the services of bookkeepers and/or accountants to prepare the necessary documentation, these records must be provided by all employers regardless of size, as the success of the unemployment compensation and temporary disability insurance programs is dependent on the Department's ability to accumulate accurate information regarding the entire State workforce. The recordkeeping and reporting costs for small businesses will most likely be less than those for larger employers, as such expenses are generally directly proportionate to the number of workers employed. The proposed amendments will educate employers as to various changes to the Department's policies and procedures and to changes in the Unemployment Compensation, Temporary Disability Benefits, Health Care Subsidy, and Workforce Development Partnership Laws and the Supplemental Workforce Fund for Basic Skills and thereby eliminate confusion and unnecessary expense caused by their failure to comply with reporting requirements.



## PROPOSALS

### Smart Growth Impact

The rules proposed for readoption with amendments will not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:16.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

#### 12:16-3.1 Power of attorney: requirements

(a)-(b) (No change.)

(c) If the address of record for the employer is changed to that of the representative on the [status [tax]] file, the benefit file, or both, the representative must accept all reports, notices, billings, and correspondence pertinent to the particular file on which the address had been changed.

#### 12:16-4.1 Remuneration defined

(a) (No change.)

(b) The following remuneration issues are discussed in N.J.A.C.

#### 12:16-4.2 through [4.14] 4.17.

1.-12. (No change.)

13. Interest on below-market interest rate loans; [and]

14. Section 125 Cafeteria plans[.];

15. Stock options;

16. Deferred payments; and

17. Co-employed individuals, employee leasing clients.

#### 12:16-4.15 Stock options

(a) The value of a stock option is taxable remuneration at the time the option is exercised when the individual exercising the option is a current employee. The value of the stock option is also taxable remuneration when exercised after separation from employment but during the same calendar year in which the separation occurred.

(b) The value of a stock option is not taxable remuneration when exercised by a former employee in a calendar year following the calendar year in which the separation occurred.

(c) A wholly owned subsidiary company is the employer responsible for contribution payments when an employee of the subsidiary company exercises stock options of the parent corporation.

#### 12:16-4.16 Deferred payments

Deferred payment of remuneration for services accrued by an employer that is not included as part of a qualified pension, profit sharing or stock option plans or another pension arrangement where a trust is created is taxable remuneration at the time payment is made.

#### 12:16-4.17 Co-employed individuals, employee leasing clients

A client company is the employer responsible for contribution payments when remuneration for services is paid directly by the client company to workers co-employed under an employee leasing agreement.

#### 12:16-5.3 [Bases of contribution payments] Payment of contributions

(a)-(b) (No change.)

(c) Payment of contributions, except for payment by electronic means, shall be submitted with contribution reports.

(d) Payment of contributions by electronic means includes, but is not limited to, electronic funds transfer (EFT) or Internet methods and shall comply with the provisions regarding payment by electronic means contained in N.J.S.A. 54:48-4.1 et seq., which provisions are incorporated herein by reference.

## LABOR AND WORKFORCE DEVELOPMENT

### SUBCHAPTER 7. CONTRIBUTORY OPTION FOR GOVERNMENTAL EMPLOYERS

#### 12:16-7.4 Finance

(a) (No change.)

(b) The Commissioner of Labor and Workforce Development shall establish the contribution rate for the following calendar year after considering the recommendation.

(c) (No change.)

#### 12:16-10.2 Excess unemployment, health care, [and] workforce development and supplemental workforce fund for basic skills deductions

[(a)] If a worker receives wages from more than one employer and the sum of the contributions required and deducted from his or her wages and deposited in the State Unemployment Compensation Fund or in a trust fund for the purpose of repaying benefits, the Health Care Subsidy Fund, the Workforce Development Partnership Fund, and the Supplemental Workforce Fund for Basic Skills exceeds [one-tenth] seventeen-fortieths of one percent of the taxable wage base for the period beginning [January 1, 1998 and ending December 31, 1998, or one and one half-tenth of one percent beginning January 1, 1999 and ending December 31, 1999, or two-tenths of one percent beginning January 1, 2000 and ending December 31, 2002, or four-tenths of one percent beginning January 1, 2003] January 1, 2002, the worker shall be entitled to a credit in the amount of the excess thereof against his or her New Jersey State Gross Income Tax, if he or she makes a valid claim therefor with the Division of Taxation within two calendar years after the end of the calendar year in which the wages were received.

[(b)] If a worker receives wages from more than one employer and the sum of the contributions required and deducted from his or her wages and deposited in the Health Care Subsidy Fund exceeds three-tenths of one percent for the period beginning January 1, 1998 and ending December 31, 1998, or two and one half-tenths of one percent for the period beginning January 1, 1999 and ending December 31, 1999, or two-tenths of one percent for the period beginning January 1, 2000 and ending December 31, 2002, the worker shall be entitled to a credit in the amount of the excess thereof against his or her New Jersey State Gross Income Tax, if he or she makes a valid claim therefor with the Division of Taxation.

(c) If a worker receives wages from more than one employer and the sum of the contributions required and deducted from his or her wages and deposited in the Workforce Development Partnership Fund exceeds one-fortieth of one percent of the taxable wage base for periods beginning January 1, 1998, the worker shall be entitled to a credit in the amount of the excess thereof against his or her New Jersey State Gross Income Tax, if he or she makes a valid claim therefor with the Division of Taxation.]

### SUBCHAPTER 11. SPECIAL EMPLOYMENT SITUATIONS

#### 12:16-11.2 Limited liability companies

(a) A limited liability company (LLC) is composed of one or more authorized persons who complete and file a certificate of formation with the [Secretary of State of the State of New Jersey] Division of Revenue. An LLC must have one or more members and may commence operations at any date or time after filing the certificate of formation.

(b)-(c) (No change.)

#### 12:16-13.7 Wage reporting

(a) [For the calendar quarter commencing July 1, 1984, and each quarter thereafter, each] Each employer other than employers of domestic service workers shall file a report with the Controller or his or her designee within 30 days after the end of each quarter in a form and manner prescribed by the Controller or his or her designee listing the name, social security number and wages paid to each employee and the number of base weeks worked by the employee during the calendar quarter. If wages or base weeks are -0-, then the employer must enter -0- in the appropriate columns.

(b) (No change.)



(c) Effective January 1, 2001 and each year thereafter, each employer of domestic service workers shall file an annual Employer Report of Wages Paid with the Controller or his or her designee listing the name, social security number and wages paid to each employee and the number of base weeks worked each quarter during the preceding calendar year. If wages or base weeks are -0-, then the employer must enter -0- in the appropriate columns. For the calendar year ending December 31, the report would be due January 31 following the close of the calendar year.

1. An employer subject to this subsection shall, within 10 days of the separation from employment of an employee in domestic service, report to the Commissioner of the Department of Labor and Workforce Development, on a form determined by the Commissioner, wage information for all calendar quarters of employment in a manner as described in (c) above not previously reported and such other information as may be required to process an unemployment or disability compensation claim.

(d) (No change.)

(e) The following pertains to magnetic media reporting:

1.-5. (No change.)

6. [Employer or third-party payroll processors may have the requirements in (c)1 through 5 above waived or extended for good cause as defined in N.J.A.C. 12:19-1.2 upon written application for waiver or extension to the Controller or his or her designee.] For all calendar quarters subsequent to the quarter ending December 31, 2005, all employers who would report in excess of 10 employees on Form WR-30, "Employer Report of Wages Paid," in any calendar quarter shall file such reports via electronic means in a form and manner specified by the Commissioner or his or her designee.

7. For all calendar quarters subsequent to the quarter ending December 31, 2005, all third-party payroll processors who on a quarterly basis generate and file Form WR-30, "Employer Report of Wages Paid," and Form NJ-927, "Employer's Quarterly Report," together with payment of contributions liability shall file the WR-30 reports for all clients via electronic means in a form and manner specified by the Commissioner or his or her designee, if the aggregate number of all employees for all clients processed and so reported by the third party exceeds 10 in any calendar quarter.

8. Employer or third-party payroll processors may have the requirements in (e)1 through 7 above waived or extended for good cause as defined in N.J.A.C. 12:19-1.2 upon written application for a waiver or extension to the Commissioner or his or her designee.

[7].9. If an employer or a third-party payroll processor fails to comply with the provisions of this subsection, the penalties specified in [(b)](d) above shall apply.

10. The filing of form WR-30 via electronic means includes, but is not limited to, magnetic media or Internet methods.

12:16-13.9 Transfer of business

(a)-(b) (No change.)

(c) This notification, if possible, should be made on Form [UC-1] NJ REG; otherwise, a letter will be acceptable.

12:16-15.5 Modification of a voluntary joint account

(a) (No change.)

(b) If during any calendar year an employing unit participating in a voluntary joint account ceases to be an employer under the New Jersey Unemployment Compensation Law, or ceases to be owned or controlled by the same interests, such employing unit shall be separated from the voluntary joint account[s] as of the first day of such calendar year, but shall continue for the current fiscal year with the contribution rate computed under the voluntary joint account.

## SUBCHAPTER 16. NOTICE TO WORKERS

12:16-16.1 Unemployment compensation coverage

(a)-(b) (No change.)

(c) No such notice shall be posted by any person, employing unit or employer who has not complied with the provisions of the Unemployment Compensation Law [and to whom an unemployment

compensation registration number has not been assigned by the Controller or his or her designee], or who, in accordance with the provisions of the law, has ceased to be an employer as defined in the law.

[12:16-16.2 Termination of subject status

Every employing unit which has ceased to be a subject employer, pursuant to the provisions of N.J.S.A. 43:21-8 of the Unemployment Compensation Law, shall post and maintain notice of such fact on forms supplied by the Controller or his or her designee, in order to inform its workers that they are not in covered employment and are not liable for contributions.]

## SUBCHAPTER 21. ZIP CODE REPORTING

12:16-21.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Commissioner" means the Commissioner of the New Jersey Department of Labor and Workforce Development.

"Department" means the New Jersey Department of Labor and Workforce Development.

## SUBCHAPTER 22. HEARINGS

12:16-22.3 Informal conference

(a)-(d) (No change.)

(e) If an employer fails to appear at an informal conference and fails to respond to the [Division's] Chief Auditor's notice granting the employer 10 days to contact the [Division] Chief Auditor or the Chief Auditor's representative to reschedule the conference, the Department shall consider the employer to have withdrawn his or her request for hearing and to be liable for the unemployment and temporary disability insurance assessment.

## SUBCHAPTER 23. SERVICES EXCLUDED FROM COVERAGE BY THE UNEMPLOYMENT COMPENSATION LAW

12:16-23.1 Exempt services

(a) (No change.)

(b) The Unemployment Compensation Law lists certain categories of services as being exempt from Unemployment Compensation coverage. However, these services are exempt only if there is a corresponding exemption under the Federal Unemployment Tax Act ("FUTA") or the services are otherwise not subject to tax or coverage under FUTA.

1. (No change.)

2. The [Division of Unemployment Insurance/Disability Insurance Financing] Department will hold such class of individuals or type of service in covered employment pending receipt of proof of exemption under N.J.A.C. 12:16-23.2 below and determination of exemption.

12:16-23.2 Evidence of FUTA exemption

(a) (No change.)

(b) The [Division] Department reserves the right to examine the circumstances surrounding the relationship between the parties to determine if the conditions of the relationship with the employer have changed.

## SUBCHAPTER 24. EMPLOYEE LEASING COMPANIES

12:16-24.1 Application and scope

(a) The rules in this subchapter set forth the requirements and methodology by which an employee leasing company, also known as a professional employer organization ("PEO"), shall register with the Commissioner of Labor and Workforce Development, pursuant to P.L. 2001, c.260, N.J.S.A. 34:8-67 et seq.

(b) (No change.)

## 2:16-24.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Department" means the Department of Labor and Workforce Development.

## 2:16-24.3 Initial and annual registration

(a) An employee leasing company or professional employer organization, as defined in N.J.A.C. 12:16-24.2, shall register with the commissioner or his or her designee. This registration is separate from, and in addition to, any statutory requirements to register as an employer in this State or to conduct business in this State.

1. The form for the initial registration of an employee leasing company or professional employer organization shall be prescribed by the Commissioner or his or her designee, and is available on the department website at: [www.state.nj.us/labor/admin/forms.htm](http://www.state.nj.us/labor/admin/forms.htm), or may be requested by contacting the Department directly, by calling the Labor and Workforce Development hotline at (609) 633-6400. This form requires the business to record its beginning date, the name of the business incorporation information, the names, social security numbers and home addresses of the owners, partners or responsible corporate officers, and relevant wage, salary and commission information, as well as indicating the status of the business in regard to various State and federal contributory programs (for example, Unemployment Compensation).

2. (No change.)

3. The initial registration form shall be completed and returned to the commissioner or his or her designee within 30 days from the date of filing. If the registration form is completed on the Department of Labor and Workforce Development website, it shall be submitted within 60 days of the date of the first employment or co-employment in this State.

(b)-(c) (No change.)